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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/777,079	02/13/2004	James R. Crapser	J-3894	4128
28165	7590	02/08/2006	EXAMINER	
S.C. JOHNSON & SON, INC. 1525 HOWE STREET RACINE, WI 53403-2236			WILSON, GREGORY A	
			ART UNIT	PAPER NUMBER
			3749	

DATE MAILED: 02/08/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/777,079

Applicant(s)

CRAPSER, JAMES R.

Examiner

Gregory A. Wilson

Art Unit

3749

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 02 December 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-6 and 8-23 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 12, 15, 22 and 23 is/are allowed.
- 6) ☒ Claim(s) 1-6, 8-11, 13, 14 and 16-21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 December 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 1-6, 8-11, 13, 14 and 16-21** rejected under 35 U.S.C. 103(a) as being unpatentable over **Hart et al (6,708,897)**. **Hart et al** teaches an evaporative device (1) including a container (26) for holding a liquid, the container having an opening, a porous wick (2) extending through the opening such that a portion of the wick contacts the liquid held in the container and a portion of the wick is exposed to the ambient environment, where the wick transfers the liquid from the container, a nonporous capillary member (18) made of plastic or metal (ie: polyethylene) having a surface in communication with a portion of the wick, capillary passageways are considered the capillary portion between the plurality of small openings (6) wherein the passageway is in communication with the extended wick portion (2) and are on the surface of the capillary plate. In regards to claim 10, the capillary member is detachable secured to the container (SEE Figures 6a & 6b). **Hart et al** does not particularly disclose that the capillary member has a capillary channel that extends radially from the wick. It would have been an obvious matter of design choice to modify the capillary member by having a different orientation such that the capillary effect would occur radially instead of

Art Unit: 3749

axially, since the applicant has not disclosed that having a capillary member with channels extending radially solves any stated problem or is for any particular purpose and it appears that non-porous capillary member (18) of Hart et al would perform equally well with any orientation as long as liquid within a containment (bottle) and having a porous wick in contact with the liquid allows the fluid to travel to the capillary member for evaporation into the atmosphere. With regards to claims 13 & 14, **Hart et al** discloses the applicants primary inventive concept as stated above but does not specifically recite an evaporate device having plural capillary plates. It would have been obvious at the time the invention was made to a person having ordinary skill in the art to which the subject matter pertains to have modified the evaporate device of Hart et al to accommodate multiple capillary plates sine it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art.

***Allowable Subject Matter***

**Claims 12, 15, 22, and 23 are allowed.**

***Response to Arguments***

Applicant's arguments filed 12/2/05 have been fully considered but they are not persuasive. In reply to applicants arguments that the prior art does not disclose or suggest an evaporative device including a capillary member having a surface communication with a portion of a wick, wherein the surface has nonporous capillary

Art Unit: 3749

channels that extend radially from the wick along the surface of the capillary plate, the examiner respectfully disagrees. Applicant discloses on page 8, lines 8-29 that the capillary plate is wing-shaped and has a design wherein the capillary channels extend radially from the wick, however, the applicant also contemplates many "suitable" shapes and sizes for the capillary plate (line 9). Additionally, the applicant states that other shapes and sizes may be equally effective at transporting the liquid via capillary action from the wick and that any shape and size that allows liquid contained within a bottle to be transported by capillary action will suffice. Absent a showing of new or unobvious results, it would have been obvious to modify the capillary member to provide capillary channels extending radially from the wick since Hart et al teaches structure that draws a liquid from a container and by capillary effects distributes the fluid for evaporation to ambient air.

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the

Art Unit: 3749

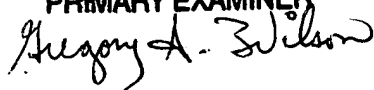
shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gregory A. Wilson whose telephone number is (571)272-4882. The examiner can normally be reached on 7 am - 4:30 pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ehud Gartenberg can be reached on (571) 272-4828. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

**GREGORY WILSON**  
**PRIMARY EXAMINER**



Gaw

February 2, 2006